

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

BRADFORD LONERGAN,

Case No. 3:20-cv-00920-AC

Plaintiff,

ORDER

v.

PROVIDENCE HEALTH SERVICES,

Defendant.

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ACOSTA, Magistrate Judge:

On October 19, 2020, *pro se* Plaintiff Bradford Lonergan filed a Motion for Leave to File an Amended Complaint (ECF No. 23) and a Motion for Appointment of Counsel (ECF No. 24). For the following reasons, both motions are DENIED.

*Background*

On June 5, 2020, Plaintiff filed a Complaint asserting a variety of constitutional and statutory violations. On June 11, 2020, the court issued a Findings and Recommendation recommending that Plaintiff's application to proceed *in forma pauperis* ("IFP") be granted and

that his Complaint failed to state a claim for relief and should be dismissed. (F&R, ECF No. 4.) On July 2, 2020, U.S. District Judge Michael H. Simon adopted that recommendation, and ordered that Plaintiff's application to proceed IFP be granted. Also, Judge Simon dismissed Plaintiff's claims under 18 U.S.C. §§ 242 and 287 and the Health Insurance Portability and Accountability Act of 1996 with prejudice and without leave to amend. And, Judge Simon dismissed Plaintiff's remaining claims without prejudice and provided Plaintiff until August 3, 2020, to file an Amended Complaint that cures the deficiencies identified in the Findings and Recommendation. (Order, ECF No. 8.)

On July 22, 2020, the court conducted a status conference by telephone. At the conference, the court stated it would appoint a lawyer from the court's voluntary Pro Bono Panel,<sup>1</sup> and extended the time for Plaintiff to file his Amended Complaint to September 8, 2020. (Minutes of Proceeding, ECF No. 11). Following three unsuccessful attempts to appoint pro bono counsel for Plaintiff, on September 8, 2020, the court ordered that no further pro bono appointments would be made, and the court again extended the deadline for Plaintiff to file an Amended Complaint to September 22, 2020. (Scheduling Order, ECF No. 21.) The court cautioned Plaintiff that pursuant to Local Rule 16-3, no further extensions of time would be given absent a showing of good cause and effective use of prior time. (*Id.*) On September 25, 2020, after expiration of the deadline to file an Amended Complaint, the court granted Plaintiff's oral motion for extension of time to file his Amended Complaint and gave Plaintiff until November 6, 2020 to do so. (Order, ECF No. 22.)

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<sup>1</sup> Lawyers voluntarily participate in the court's pro bono panel program and they are free to decline an appointment.

On October 19, 2020, Plaintiff filed a Motion to Amend the Complaint and a Motion for Appointment of Counsel. (ECF Nos. 23 & 24.)


*Order*

Plaintiff's Motion for Leave to File an Amended Complaint (ECF No. 23) is DENIED as MOOT. Pursuant to Federal Rule of Civil Procedure 15(a)(1), a party may file an amended pleading once as a matter of course. Additionally, Plaintiff has been Ordered to file an Amended Complaint if he wishes to further proceed with this action. Plaintiff simply needs to file the Amended Complaint; no motion is required at this time. Due to recent delays with mail delivery, the court extends the deadline to file the Amended Complaint from November 6, 2020 to November 9, 2020. Again, the court cautions Plaintiff to timely file his Amended Complaint and warns him for the final time that no further deadline extensions will be permitted. LR 16-3. Failure to file the Amended Complaint by November 9, 2020, may result in dismissal of this action.

Plaintiff's Motion for Appointment of Counsel (ECF No. 24) is DENIED. In light of three previous pro bono appointment terminations, the court ordered that no further pro bono appointments would be made. (Scheduling Order, ECF No. 21.) The court adheres to that ruling.

IT IS SO ORDERED.

DATED this 21<sup>st</sup> day of October, 2020.

  
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JOHN V. ACOSTA  
United States Magistrate Judge